

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

December 4, 2003

IN RE:

**IMPLEMENTATION OF THE FEDERAL
COMMUNICATIONS COMMISSION'S
TRIENNIAL REVIEW ORDER – 9
MONTH PROCEEDING – SWITCHING**

**DOCKET NO.
03-00491**

**ORDER ON DECEMBER 1, 2003 STATUS CONFERENCE
AND AMENDING PROCEDURAL SCHEDULE**

This docket came before the Hearing Officer at a status conference on December 1, 2003, which had been set pursuant to the November 20, 2003 *Order Granting in Part Joint Motion to Amend Procedural Schedule* and the November 25, 2003 *Notice of Status Conference*. The noticed purposes of the status conference were to discuss the procedural schedule and address any other issues the parties may raise. The parties in attendance at the status conference were:

MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. – John Hastings, Esq., Boulton, Cummings, Conners & Berry, PLC, 414 Union Street, Suite 1600, Nashville, Tennessee 37219 and Kennard B. Woods, Esq. Six Concourse Parkway, Suite 600, Atlanta, Georgia 30328 (participating telephonically);

Competitive Carriers of the South, Inc. – Henry Walker, Esq., Boulton, Cummings, Conners & Berry, PLC, 414 Union Street, Suite 1600, Nashville, Tennessee 37219;

Sprint Communications Company, L.P., United Telephone-Southeast, Inc., and Sprint Spectrum, L.P. d/b/a Sprint PCS – James Wright, Esq., 14111 Capital Boulevard, Wake Forest, North Carolina 27587 (participating telephonically);

BellSouth Telecommunications, Inc. – Guy Hicks, Esq., 333 Commerce Street, Suite 2101, Nashville, Tennessee 37201 and Andrew D. Shore, Esq., 675 West Peachtree Street, Atlanta, Georgia 30375 (participating telephonically);

Consumer Advocate and Protection Division – Timothy Phillips, Esq. and Joe Shirley, Esq., Office of the Attorney General, Post Office Box 20207, Nashville, Tennessee 37202; and

KMC Telecom III, LLC¹ – H. LaDon Baltimore, Esq., 211 Seventh Avenue North, Suite 420, Nashville, Tennessee 37219 and John McLaughlin, Jr., Director - State Government Affairs, 1755 North Brown Road, Lawrenceville, GA 30043 (participating telephonically).

The first item discussed was the procedural schedule. The Hearing Officer began the discussion by reviewing the current dates for the filing of motions to compel and responses to discovery by Birch Telecom of the South, Inc., Access Integrated Networks, Momentum Business Solutions, AT&T Communications of the South Central States, LLC, NewSouth Communications, Corp., and Nuvox Communications, Inc. Next, the Hearing Officer stated that it was not his intention to modify the dates for filing testimony or post-hearing briefs or the hearing.

The Hearing Officer and the parties then turned to how to proceed with discovery. All in attendance agreed that one round of motions to compel is all that is believed to be needed at this time.² Further, all agreed that the time for filing motions to compel should be extended to December 12, 2003 with one exception and the time for filing responses to motions to compel should be extended to December 17, 2003. It was also decided that there was no need to include dates for the filing of the order disposing of motions to compel and the filing of supplemental discovery responses.

The one exception involves KMC Telecom III, LLC ("KMC"). Immediately preceding the status conference, KMC filed a motion, which it orally raised at the status conference. In the

¹ KMC Telecom III, LLC did not file a petition to intervene in this docket, but it is a member of Competitive Carriers of the South, Inc. and has been served with discovery requests from BellSouth Telecommunications, Inc.

² Mr. Walker, counsel for Competitive Carriers of the South, Inc., stated that there would be circumstances that could not be contemplated at this time that may require the filing of a motion. BellSouth Telecommunications, Inc. agreed and noted that the time period between the filing of direct and rebuttal testimony would permit the filing of supplemental direct testimony if necessary. While this is true, the Hearing Officer notes that at some point in time discovery must come to an end.

motion, KMC requests an extension until December 12, 2003 to file its responses to BellSouth Telecommunications, Inc.'s discovery requests. KMC cited the large number of requests as support for its motion. No party objected to this motion, and the Hearing Officer granted the motion. Given this action, the time for filing a motion to compel with regard to discovery responses from KMC is extended to December 17, 2003 and the time for filing a response is extended to December 22, 2003.

The second item discussed at the status conference was the role played in this docket by certain entities that filed notices of appearance requesting to receive copies of notices and orders, but which did not request intervention for the purpose of actively participating in the docket. It was determined that at this time the active parties are BellSouth Telecommunications, Inc., the Competitive Carriers of the South, Inc.,³ Sprint Communications Company, L.P., United Telephone-Southeast, Inc, Sprint Spectrum, L.P. d/b/a Sprint PCS, the Consumer Advocate and Protection Division, MCImetro Access Transmission Services, LLC, and Brooks Fiber Communications of Tennessee, Inc. It was agreed that for the purpose of obtaining the agreement of all the parties for the filing of any pleading, a party need only contact the active parties, but should serve copies on all entities that have entered an appearance in this docket.

IT IS THEREFORE ORDERED:

- 1) The procedural schedule is amended as follows:

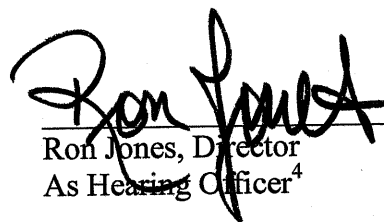
Nuvox Files Discovery Responses..... Tuesday, November 25, 2003

Birch, AT&T, Momentum, NewSouth, and
AIN Files Discovery ResponsesMonday, December 1, 2003

³ AT&T Communications of the South Central States, LLC, ITC^DeltaCom of the South Central States, LLC, DIECA Communications Inc. d/b/a Covad Communications Company, and Birch Telecom of the South, Inc. also requested and were granted intervention to fully participate in this docket. However, each company is represented by counsel for the Competitive Carriers of the South, Inc. and in a November 21, 2003 letter their counsel indicated that a filing made by the Competitive Carriers of the South, Inc. is also made on behalf of its member companies that have intervened in this docket. See Letter from Henry Walker and Guy Hicks Regarding Docket 03-00491, 1 (Nov. 21, 2003).

Xspedius Files Discovery Responses.....Friday, December 5, 2003
 Motions to Compel FiledFriday, December 12, 2003
 Responses to Motions to Compel & Motion to Compel
 Responses from KMC Telecom III, LLC Filed..... Wednesday, December 17, 2003
 Response to Motion to Compel Responses
 from KMC Telecom III, LLC Filed.....Monday, December 22, 2003
 Order on Motions to Compel OPEN
 Supplemental Discovery Responses, If Needed OPEN
 Direct Testimony FiledFriday, January 16, 2004
 Supplemental Direct Testimony, If Needed..... OPEN
 Rebuttal Testimony Filed.....Friday, February 27, 2004
 Surrebuttal Testimony Filed Wednesday, March 17, 2004
 Hearing.....Monday, March 29, 2004 at 9:00 a.m. through April 2, 2004
 Direct Post-Hearing Briefs FiledTuesday, April 20, 2004
 Reply Post-Hearing Briefs Filed.....Wednesday, May 5, 2004

2) For the purpose of obtaining the agreement of all the parties for the filing of any pleading, a party need only contact the active parties to obtain their agreement, but should serve copies on all entities that have entered an appearance in this docket.


 Ron Jones, Director
 As Hearing Officer⁴

⁴ During the September 22, 2003 Authority Conference, a panel of the Tennessee Regulatory Authority consisting of Chairman Deborah Taylor Tate and Directors Pat Miller and Ron Jones unanimously voted to appoint Director Ron Jones as the Hearing Officer to prepare the switching portion of this case for a hearing by the panel. Transcript of Proceedings, Sept. 22, 2003, pp. 73-75 (Authority Conference).